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State of Ohio Environmental Protection Agency

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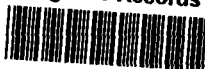
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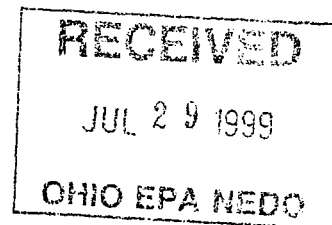
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MAY 06 1999

EPA Region 5 Records Ctr.



200644

Dr. William Rish
McLaren Hart, Inc.
5900 Landerbrook Dr.
Suite 100
Cleveland, OH 44124

Re: **Approval of Urban Setting Designation, "Industrial Valley Area" within the City of Cleveland (ID: 98USD013), Cuyahoga County, Ohio.**

Dear Dr. Rish:

The purpose of this letter is to respond to and approve your request on behalf of your client, the City of Cleveland (Cleveland), for an Urban Setting Designation (USD) for the 3,616 acre area known as the "Industrial Valley Area" within Cleveland, Cuyahoga County, Ohio. A general map of the area subject to this USD approval is included as Attachment 1 hereto.

The map in Attachment 1 provides a general view of the boundary of the whole Industrial Valley Area USD, however as discussed below, the ArcInfo GIS mapping system will be the mechanism for determining whether a parcel lies wholly within the boundary of the USD, and therefore is within the area subject to this USD approval.

This USD request has been made pursuant to Ohio Administrative Code (OAC) 3745-300-10(D) under the Voluntary Action Program (VAP). As set forth in OAC 3745-300-10(D), the USD authorizes the use of an alternative standard for ground water cleanup for the area delineated within the USD, generally based upon the urban nature of the area, the availability and widespread use of public drinking water supplies, and lack of use of ground water in the area for potable purposes.

As you are aware, a USD may be requested under the VAP by a Certified Professional (CP) upon demonstration that the threshold criteria contained in OAC 3745-300-10(D)(1)(a) through (e) have been met within the USD area. The Director of Ohio EPA is authorized to approve a USD after Ohio EPA finds that the threshold criteria are met, and upon consideration of the additional criteria contained in OAC 3745-300-10(D)(2)(e)(ii) through (vii), regarding, among other things, regional water resource needs, existing or potential future uses of ground water, and the potential impact of the USD on surrounding jurisdictions.

The following briefly describes the Ohio EPA's determination of how your USD request demonstrates that the "Industrial Valley Area" meets the threshold criteria in OAC 3745-300-10(D)(1)(a) through (e), and the Ohio EPA's consideration of the additional factors contained in OAC 3745-300-10(D)(2)(e)(ii) through (vii).

I. Threshold Criteria: OAC 3745-300-10(D)(1)(a) through (e)

1. OAC 3745-300-10(D)(1)(a): Property Location.

- a) The General Site Location Map indicates that the Industrial Valley Area, composed of 3,616 acres, is located entirely within the corporation boundaries of Cleveland.
- b) The 1990 U.S. Census reported the total population of Cleveland to be 505,616, which meets the required number of residents for a city in Ohio.

2. OAC 3745-300-10(D)(1)(b): Parcels Connected to a Community Water Supply.

The following information supports the conclusion that not less than 90 percent of the parcels within Cleveland are connected to the community water supply:

- a) The 1990 U.S. Census report indicated that 99.94 percent of the housing units within Cleveland are served by the community water supply.
- b) Since 1960, the Cleveland municipal building code (Cleveland Housing Code 369.07, Ordinance No. 2409-59) has required all plumbing fixtures in a dwelling structure to be supplied with running water from the municipal water supply system.
- c) Mr. Julius Ciaccia, Jr. (Commissioner, Cleveland Water Division) confirmed in a letter dated December 4, 1996, that greater than 90 percent of all parcels in Cleveland are connected to the Cleveland water supply.
- d) Mr. Richard M. Timm (Environmental Programs Manager, Cleveland Department of Public Utilities) confirmed: 1) in a letter dated February 18, 1997, that no private well accounts exist within Cleveland; and 2) in a letter dated September 5, 1997, that no sewer only accounts exist within Cleveland.
- e) A computer database for Cuyahoga County (MetroScan) was utilized by the CP to demonstrate that not less than 90 percent of the parcels are connected to the community water supply. According to the June 1997

MetroScan update, 158,355 parcels, or 89.3 percent of the total 177,274 parcels within Cleveland, are connected to the community water supply. By eliminating the 4,508 parcels occupied by state-owned highways, the percentage of connection to a community water supply increases to greater than 91 percent.

- f) The CP provided an affidavit documenting the telephone conversation with officials of the Cleveland Division of Water in which it was confirmed that there are water mains and service to every street in Cleveland.
- g) Within Cleveland, the USD request for the property located at 6710 Lexington Avenue in Cleveland - the former Coyne Laundry Property, was approved by the Director on September 15, 1997; and the USD request for the property located at 577 East 152nd Street in Cleveland, Cuyahoga County, Ohio 44110 - the Former Collinwood Locomotive Rail Car Maintenance Facility, was approved on April 30, 1998. The USD request for the former Coyne Laundry Property provided Ohio EPA with the water line distribution maps from the Cleveland Division of Water.

3. OAC 3745-300-10(D)(1)(c): Wellhead Protection Area.

The USD area is not located within an endorsed wellhead protection area, or a proposed wellhead protection area currently submitted to Ohio EPA for review and endorsement. To date, there are no established or proposed wellhead protection areas within a ten (10) mile radius of Cleveland.

Cleveland is not pursuing a well head protection area because of the large available source of surface water from Lake Erie. Lake Erie is used as the source of the public water supply for the majority of the communities within Cuyahoga County, its adjoining lakeshore counties, and northern Summit County.

4. OAC 3745-300-10(D)(1)(d): Wells Within ½ Mile of the Property Boundary.

The following information was presented with the USD request to support the CP's demonstration that no potable wells exist within the USD area or within one-half (½) mile of the USD area boundary:

- a) Based on the data available from the Ohio Department of Natural Resources (ODNR), such as the ODNR well logs, located, unlocated, and pre-1953, no potable wells were identified within the USD area or within one-half (½) mile of the USD boundary;

- b) A MetroScan database, created by TransAmerica Information Management Services, is a database containing public record information from the Cuyahoga County Tax Auditor's Office. This computer database was used to identify any residential property with a private water supply. No potable wells were identified within the USD area or within one-half mile ($\frac{1}{2}$) of the USD boundary;
- c) Mr. Richard M. Timm (Environmental Programs Manager, Cleveland Department of Public Utilities) confirmed: 1) in a letter dated February 18, 1997, that no private well accounts exist within Cleveland; and 2) in a letter dated September 5, 1997, that no sewer only accounts exist within Cleveland;
- d) Based on data available from Ohio EPA, there were no community, non-transient non-community, or transient non-community water systems within the USD area or within one-half ($\frac{1}{2}$) mile of the USD boundary;
- e) Cleveland Housing Code 369.07 requires that all dwelling structures be connected to the municipal water supply system; and
- f) The 1990 U.S. Census report indicated that 99.94 percent of the housing units within Cleveland were served by the public community water supply.

5. OAC 3745-300-10(D)(1)(e): Sole Source Aquifer or 100 gpm Unconsolidated Aquifer.

Based on data available from Ohio EPA and ODNR ground water resources map for Cuyahoga County, the USD area is not located over a consolidated Sole Source Aquifer, although the USD area is partially located over an unconsolidated saturated zone capable of yielding greater than one hundred gallons per minute. In accordance with OAC 3745-300-10(D)(1)(e), the CP adequately demonstrated that the ground water is not currently used or expected to be used in the future for potable purposes in the USD area and within one-half ($\frac{1}{2}$) mile of the USD boundary.

II. Additional Factors for Consideration under OAC 3745-300-10(D)(2)(e)(ii) through (vii):

In addition to the threshold criteria contained in OAC 3745-300-10(D)(1)(a) through (e), OAC 3745-300-10(D)(2)(e)(ii) through (vii) require consideration of several factors for a USD approval: the potential impact of the USD on surrounding jurisdictions, and on regional water resource needs; existing or potential future uses of ground water in the region or in the USD area; the availability and feasibility of treatment systems; and any other factors determined to be relevant to the determination of whether the USD is protective of public health, safety, and the environment.

1. OAC 3745-300-10(D)(2)(e)(ii) through (iii): Potential Impact of the USD on Surrounding Jurisdictions and Regional Water Resource Needs.

Ohio EPA invited mayors, city directors, and/or planners from the twenty-three (23) communities surrounding the six (6) proposed USDs to attend the November 19, 1998 public meeting concerning the six (6) proposed USDs.

The surrounding jurisdictions include Bratenahl, Brooklyn, Brooklyn Heights, Brook Park, Cleveland Heights, Cuyahoga Heights, East Cleveland, Euclid, Garfield Heights, Independence, Lakewood, Linndale, Maple Heights, Newburg Heights, North Randall, South Euclid, Seven Hills, Shaker Heights, Warrensville Heights, Parma Heights, Middleburg Heights, Fairview Park and Parma. The purpose of the public meeting was to provide information to the community about the proposed USDs and to seek input from the community about the potential impacts of the USDs. In addition, between December 14 and 16, 1998, Ohio EPA telephoned the twenty-three (23) surrounding communities listed above, and spoke to representatives of those cities, including mayors, engineers, planners or law directors, about the USD, and provided them with additional information regarding the USD.

In addition to the information presented with this USD request, some of the information previously gathered for the former Coyne Laundry Property USD approval is relevant for consideration of this USD request. The surrounding jurisdictions all receive their public drinking water from Cleveland with the sole source of this drinking water being Lake Erie. The surrounding jurisdictions reportedly have not experienced any shortages of water, and all anticipate having a sufficient supply of water to meet all future needs.

Based on the information provided with this USD request, and based upon information obtained in previous USD requests within Cleveland, it does not appear that regional water resource needs will be impacted by this proposed USD. In addition, Ohio EPA has no evidence that the USD will adversely impact on ground water needed for current and anticipated future potable uses in the surrounding jurisdictions as a result of contamination that may exist within the USD area.

2. OAC 3745-300-10(D)(2)(e)(iv) through (v): Current or Expected Future Ground Water Use.

Based on the information received by the CP, and upon the information gathered by Ohio EPA for consideration of the USD, it is unlikely that potable well installation will occur in the region or the USD area, therefore, exposure to potentially contaminated ground water is unlikely. Representatives of the other surrounding jurisdictions have stated that potable well installation is unlikely due to the availability of drinking water from Cleveland's water supply system. Therefore, upon consideration of current and future expected uses of ground water as a potable source in the region, Ohio EPA

believes that the USD will be protective of public health, safety and the environment because of the significant reliance on Lake Erie as the region's source of potable water, the lack of evidence that potable wells are currently being used in the region, and the existence of some local restrictions on the installation of wells or requirements to connect to public water supplies.

3. OAC 3745-300-10(D)(2)(e)(vi): Availability and Feasibility of Treatment Systems.

The information submitted by the CP on behalf of Cleveland, and the additional information obtained by Ohio EPA, indicate that ground water is not currently, nor expected to be, utilized in the region for potable purposes. Also, no evidence suggests that granting a USD for the "Industrial Valley Area" will cause an adverse impact on the potability of water in the Cleveland public water supply system. Therefore, in this case, Ohio EPA does not consider the availability and feasibility of treatment systems to be a relevant factor for determining whether the USD will be protective of public health, safety and the environment.

4. OAC 3745-300-10(D)(2)(e)(vii): Other Factors.

The USD has been the subject of a public meeting held by the Ohio EPA on November 19, 1998. Cleveland and surrounding jurisdictions appear to be in support of, not in opposition to, the USD request for the proposed USD area. No public comments have been presented to Ohio EPA which question the accuracy of the information gathered regarding this USD request, or which provide additional factual information to suggest that the USD will not be protective of public health, safety and the environment.

Based on the information discussed above, and additional factors for consideration of the USD request have been satisfied. As a result, the ground water cleanup requirements applicable to the properties identified as being located entirely within the Industrial Valley Area USD are those contained in OAC 3745-300-10 for a USD.

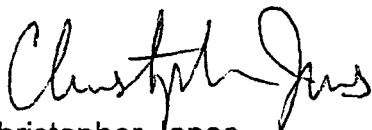
This USD letter pertains to parcels that lie wholly within the boundary of the USD area. The USD submittal contained a list of permanent parcel numbers provided by the CP and a map of that area of Cleveland where these parcels are located. The description of the USD area was provided to Ohio EPA by the CP and Volunteer in an electronic format known as ArcInfo GIS. This electronic format contains two map layers. One layer contains the boundaries for the USD area and the second map layer contains the parcels contained in the USD area. The CP and Volunteer identified the boundary of the USD area by outlining the outer boundary of each perimeter parcel. Based on the information provided by the CP, only entire parcels, and no partial parcels, exist within the USD area. This ArcInfo GIS map of the USD area is contained on a CD ROM which will be maintained by Ohio EPA. In addition to a demonstration of no significant change of USD criteria as required below, the use of this USD as an applicable ground water standard is contingent

upon making a demonstration to Ohio EPA, and receiving Ohio EPA's concurrence, that a property is located entirely within the boundary of the USD area.

This USD letter is not a final action of the Director. The use of the USD to establish applicable ground water standards for any property located within the USD area is contingent upon a determination by Ohio EPA, at the time of issuance of any Covenant Not to Sue (CNS) for any property within the USD area, that no significant change of circumstances has occurred regarding the USD criteria contained in OAC 3745-300-10(D). In addition, the use of the USD as an applicable ground water standard is contingent upon demonstration in an NFA Letter for any property within the USD area, that it is eligible for participation in the VAP, pursuant to ORC Section 3746.02 and OAC 3745-300-02. To the extent that any property located within the USD area, or any portion thereof, is determined to be ineligible for the VAP, the USD criteria and other VAP cleanup standards contained in ORC Chapter 3746 and OAC Chapter 3745-300 would be inapplicable to that property, pursuant to OAC 3745-300-10(D)(1) and ORC Section 3746.02, respectively. This USD letter pertains only to the properties identified herein, and therefor, is not applicable to any other property.

Thank you for your interest in the VAP. If you have any questions concerning this letter, please contact Jenifer Kwasniewski of my staff at (614) 644-2279.

Sincerely,



Christopher Jones
Director, Ohio Environmental Protection Agency

cc. Barb Brdicka, Deputy Director, Ohio EPA
Cindy Hafner, Acting Chief, DERR
William Skowronski, Chief, NEDO
Amy Yersavich, Unit Supervisor, DERR-CO
Mark Sheahan, Unit Supervisor, DERR-CO
Tom Allen, Assistant Chief, DDAGW
Jenifer Kwasniewski, Manager, DERR-CO
Rod Beals, Manager, DERR-NEDO
Christopher Khourey, Manager, DDAGW-GW-NEDO
Jeff Patzke, Manager, DDAGW-CO
Joe Koncelik, Legal
Beiwen Dai, Hydrogeologist, DDAGW-NEDO
Michael White, Mayor of Cleveland
VAP file

FIGURE 1
SEPTEMBER 1998

Identified Well Location

Ward Boundary

Identified Well Location

ID	LOCATION (OWNER)
6	648 PARKSIDE RD (SODERSTRM, JOHN E.)
58	4371 VALLEY FORGE DR (DR. MORSCHIE)
84	15253 McCracken RD (MILLIGAN, GEORGE)
74	3870 W. 14th ST. (RESERVE INTL. SERVICE INC.)
80	2600 HILLTOP DR

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